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4 **IN THE UNITED STATES DISTRICT COURT**
5 **FOR THE DISTRICT OF ARIZONA**

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Crystal Squire, et al.,

No. CV-22-00547-TUC-JCH

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Plaintiffs,

ORDER

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v.

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United States Department of Veterans
11 Affairs,

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Defendant.

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Plaintiffs initiated this action on December 7, 2022. Doc. 1. On March 15, 2023, this Court issued an Order to Show Cause, (Doc. 5), and directed Plaintiffs to explain their failure to either timely serve the Complaint on Defendant United States Department of Veterans Affairs or to provide proof of service in accordance with the Federal Rules of Civil Procedure. *See* Fed. R. Civ. P. 4(m). Plaintiffs filed a response. Doc. 6. The Court quashed the Order to Show Cause, granted Plaintiff's request for an additional sixty (60) days to serve the Defendant, and set a new service deadline for May 27, 2023. Doc. 7. Thereafter, Plaintiffs again failed to timely serve the Complaint on Defendant. *See* Dkt. On June 14, 2023, this Court issued a second Order to Show Cause. Doc. 8 at 2.

Rule 4(m) provides:

If a defendant is not served within 120 days after the complaint is filed, the court—on motion or its own after notice to the plaintiff—*must* dismiss the action without prejudice against that defendant.... But if the plaintiff shows good cause for the failure, the court must extend the time for service for an appropriate period....

Fed. R. Civ. P. 4(m) (emphasis added).

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1 Over 210 days have elapsed since Plaintiffs initiated this action. This Court has
2 twice afforded Plaintiffs an opportunity to explain their failure to timely serve the
3 complaint and summons on Defendant. Most recently, the Court warned Plaintiffs that
4 failure to comply with the second Order to Show Cause would result in this action's
5 dismissal. Doc. 8 at 2 ("Failure to timely or adequately respond to this Order to Show Cause
6 will, without further warning, result in the dismissal of the entire action without
7 prejudice."). Plaintiffs have not responded to the second Order to Show Cause or otherwise
8 sought an extension of time to respond to the order. As such, the Order to Show Cause has
9 not been discharged and, under Fed. R. Civ. P. 4(m), this action will be dismissed without
10 prejudice.

11 Accordingly,

12 **IT IS ORDERED DISMISSING WITHOUT PREJUDICE** the Complaint and
13 this action under Fed. R. Civ. P. 4(m). The Clerk of the Court must enter judgment
14 accordingly.

15 Dated this 10th day of July, 2023.

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19 Honorable John C. Hinderaker
20 United States District Judge

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